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PATENT
Case No.: PHB-34,314
(7790/84)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:
MATTHEW P. J. BAKER, ET AL
Serial No.: 09/478,467
Filed: JANUARY 6, 2000
For: RADIO COMMUNICATION SYSTEM

Examiner: APPIAH, CHARLES N.
Group Art Unit: 2686

REPLY BRIEF

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Reply to the Examiner's Answer of July 26, 2004, as follows

1. REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in the Appeal Brief filed May 6, 2004.

2. RELATED APPEALS AND INTERFERENCES

As of this Reply Brief, the Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

Claims 1-12 have been cancelled from the present application. Claims 13-29 are currently the claims pending in the present application, and are the claims on appeal. See, the Appendix. Claims 13, 16-19, 22, 23, 26 and 27 stand finally rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,356,759 to *Mustajarvi* Claims 14, 15, 20, 21, 24, 25, 28 and 29 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over *Mustajarvi* in view U.S. Patent No. 6,310,868 to *Esmailzadeh* et al.

4. STATUS OF AMENDMENTS

An after final request for reconsideration under 37 C.F.R. §1.116 was filed on 11/18/2003 and was entered into application by Examiner Appiah.

5. SUMMARY OF THE INVENTION

A summary of the invention is contained in the Appeal Brief filed May 6, 2004.

6 ISSUE

A statement of the issue is contained in the Appeal Brief filed May 6, 2004.

7. GROUPING OF CLAIMS

The grouping of claims is contained in the Appeal Brief filed May 6, 2004.

8. RESPONSE TO EXAMINER'S ARGUMENT

In the Examiner's Answer of July 26, 2004, Examiner Appiah demonstrated a misunderstanding of the claimed invention as recited in claims 13-29, and of the teachings and suggestions of *Mustajarvi*.

First, referring to the drawings of the *U.S Patent Application Serial No. 09/478,467*, while the Appellant teaches control information can be concurrently transmitted by a primary station 100 (FIG. 1) within an acknowledgement 204 (FIG. 3) to a secondary station 110 (FIG. 1), the scope of claims 13-29 encompasses the transmission of control information between primary station 100 and secondary station 110 on control channels 206 and 208 (FIG. 3) subsequent to a receipt of acknowledgment 204 by secondary station 110 as further taught by the Appellant and encompassed by the following limitations of independent claims 13, 19, 23 and 27:

1. "wherein, subsequent to a reception of the acknowledgement by said secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between said primary station and said secondary station" as recited in independent claim 13;

2. "wherein, subsequent to a reception of the acknowledgement by the secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between said primary station and the secondary station" as recited in independent claim 19;

3. "wherein, subsequent to a reception of the acknowledgement by said secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between the primary station and said secondary station" as recited in independent claim 23; and

4. "subsequent to a reception of the acknowledgement by said secondary station, initially transmitting control information on an uplink control channel and a downlink control channel between said primary station and said secondary station" as recited in independent claim 27.

Second, referring to the drawings of *Mustajavi*, *Mustajavi* arguably suggests control information corresponding to a request for resources 3-1 (FIG. 3) by a secondary station MS (FIG. 1) being concurrently transmitted by a primary station BSS (FIG. 1) within an acknowledgement 3-2 (FIG. 3) to secondary station MS to enable secondary station MS to send data on channel PDTCH (FIG. 3). However, in response to receiving the acknowledgement 3-2 (FIG. 3), *Mustajavi* teaches secondary station MS as being able to transmit a Packet Paging Response 3-3 (FIG. 3) that is no more than a "Ready"state signal and/or a request for additional resources to primary station BSS on the uplink direction of channel PACCH. See, *Mustajavi* at column 2, lines 43-62. Thus, *Mustajavi* fails to teach or suggest secondary station MS as transmitting control information in Packet Paging Response 3-3 to primary station BSS on the uplink direction of channel PACCH. In view of the fact that *Mustajavi* fails to teach or suggest any further transmission by secondary station MS on the uplink direction of channel PACCH, *Mustajavi* must be interpreted as failing to teach or suggest a transmission of control information between primary station BSS and secondary station MS on channel PACCH

in both the uplink direction and the downlink direction as required by the following limitations of independent claims 13, 19, 23 and 27:

1. "wherein, subsequent to a reception of the acknowledgement by said secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between said primary station and said secondary station" as recited in independent claim 13;

2. "wherein, subsequent to a reception of the acknowledgement by the secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between said primary station and the secondary station" as recited in independent claim 19;

3. "wherein, subsequent to a reception of the acknowledgement by said secondary station, control information is initially transmitted on an uplink control channel and a downlink control channel between the primary station and said secondary station" as recited in independent claim 23; and

4. "subsequent to a reception of the acknowledgement by said secondary station, initially transmitting control information on an uplink control channel and a downlink control channel between said primary station and said secondary station" as recited in independent claim 27.

Third, referring to FIG. 3 of *U S Patent Application Serial No. 09/478,467*, the Appellant teaches a delay 302 between the initial transmission of control information on control channels 206 and 208 and the initial transmission of data on data channel 210 wherein the delay either pre-determined or dynamically determined by primary station 100 or secondary station 110. See, *U.S. Patent Application Serial No. 09/478,467* at page 7, lines 14-24. The advantage of delay 302, if is it optimally determined beyond the data processing time systematically occurred by secondary station 110 in preparing data to be transmitted on data channel 210, is that power control should converge prior to the end of delay 302 to thereby facilitate satisfactory reception of data transmissions by primary station 100. Delay 302 is encompassed in the "wherein the initial transmission of data on the uplink data channel is determinedly delayed until after the initial transmission of control information on the uplink control channel and the downlink control channel" as recited in independent claim 13, 19, 23 and 27.

By comparison, *Mustajavi* fails to stipulate the potential occurrence of unsatisfactory reception of data transmission by primary station BSS due to the power levels of channel PDTCH (FIG. 3). As such, the broken lines of FIG. 3 of *Mustajavi* must be interpreted as encompassing no more than a data processing time systematically occurred by secondary station MS in preparing to transmit data on channel PTDCH where such a time is a function of a data processing and transmission architecture of secondary station MS as well as the size and complexity of the data to be transmitted. Clearly, this data processing time serves no specific purpose other than to accurately prepare the data to be transmitted as quickly as possible on channel PDTCH upon receiving an acknowledgment from primary station BSS.

In summary, the Appellant has clarified herein Examiner Appiah's misunderstanding of the claimed invention as recited in claims 13-29, and of the teachings and suggestions of *Mustajarvi*. Withdrawal of the rejection of claims 13, 16-19, 22, 23, 26 and 27 under 35 U.S.C. §102(e) as being anticipated by *Mustajarvi*; and

withdrawal of the rejection of claims 14, 15, 20, 21, 24, 25, 28 and 29 under 35 U.S.C. §103(a) as being unpatentable over *Mustajarvi* in view of *Esmailzadeh* is respectfully requested.

Dated: **September 27, 2004**

Respectfully submitted,
MATTHEW P. J. BAKER, *et al.*

PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. Box 3001
Briarcliff, New York 10510
(914) 333-9606

Jack D. Slobod
Registration No. 26,236
Attorney for Appellant

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113

Frank C. Nicholas
Registration No. 33,983
Attorney for Appellant